

# EXHIBIT D

1 Isaac D. Zorea  
2 Law Office of Isaac Derek Zorea  
3 P.O. Box 210434  
4 Anchorage, AK 99521  
(907) 830-1385  
(907) 677-3779 facsimile

5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE DISTRICT OF ALASKA

7 CAROLYN MITCHELL, )

8 Plaintiff, )

9 vs. )

10 ANCHORAGE POLICE DEPARTMENT and the )  
11 MUNICIPALITY OF ANCHORAGE, a )  
12 municipal corporation, WALTER MONEGAN, )  
13 Officer HENIKMAN, and Officer J. VOSS, )

14 Defendants. )

15 Case No. A05-0273 CV (JWS)

16 **AFFIDAVIT OF CAROLYN MITCHELL**

17 STATE OF ALASKA )

18 THIRD JUDICIAL DISTRICT )

19 ss.

20 Carolyn Mitchell, being first duly sworn upon her oath, states as follows:

21 1. On Saturday, May 8, 2004, at approximately 3:15 p.m., I was shopping at  
22 the Anchorage Sears department store, searching for a pair of shoes and a suit for my  
23 12 year old son, Demarcus, to attend an upcoming church event. I purchased the  
24 items and began to exit the store, with my son, through the Northern exit.

25 2. As I moved toward the Northern exit of the Anchorage Sears department  
26 store, I noticed police officer with weapons drawn directed patrons to exit the store  
27 through the mall entrance of the store (located to westward). My son and I complied  
28 with the demands of the police officers, and quickly left Sears department store  
through its westward exit.

AFFIDAVIT OF CAROLYN MITCHELL:  
MITCHELL V. MOA, POLICE DEPARTMENT, ET AL.

PAGE - 1 -

1           3. As I exited Sears department store from its westward exit, which led  
2 directly into a Sears Mall, I observed police officers with weapons drawn standing  
3 within the Mall who directed the departing customers of the Sears department store  
4 to exit the mall through its South exit, which was through a hallway bordering the  
5 GNC store on the west and the Sears department store on east. The hallway exited  
6 into the Mall parking lot that directly bordered Benson Boulevard.

7           4. As I left the Sears Mall, as directed by police officers, I instantly observed  
8 two policeman, later identified as Officer Justin Voss and Officer Heinkman, who  
9 stood with weapons drawn and pointed toward my son and me. One of the Officers  
10 spoke toward me, saying "Everyone move except the African-American female."

11           5. After the police officer commanded that everyone except the African-  
12 American female was to move away from the Sears Mal exit, my son, Demarcus, did  
13 not want to leave my side, and tried to remain next to me. Next one of the police  
14 officers with weapon drawn identified my son by his clothing, and ordered that he  
15 "quickly move" away from the African-American female. My son reluctantly  
16 complied, after I told him to do as commanded.

17           6. After being singled out by the armed police officers, Justin Voss and  
18 Heinkman, I asked the officers what was happening, and why was I singled out. I  
19 also asked if I could let my son call his father, and this request was immediately  
20 denied by the officers.

21           7. After being denied an opportunity to have my son call his father, a police  
22 officer (later identified as Officer Heinkman) ordered me to drop to the ground the  
23 bag of items just purchased and my handbag, and to raise my hands in the air. Next,  
24 I was asked to by Officer Heinkman if I had any weapons, to which I replied that I  
25 did not have any weapons. I further pleaded that the officers were scaring my son,  
26 and that I wanted to know what was happening.

27  
28 AFFIDAVIT OF CAROLYN MITCHELL:  
MITCHELL V. MOA, POLICE DEPARTMENT, ET AL.

PAGE - 2 -

1           8. After dropping the bags I had been carrying, Officer Heinkman ordered  
2 me to turn around and walk backward with hands raised toward his voice. I  
3 complied with his instructions. Next, Officer Heinkman told me to stop, drop my  
4 hands, and then he handcuffed my hands behind my back. I asked why I was being  
5 handcuffed, and Officer Heinkman told me I would find out later.

6           9. After being handcuffed, I was escorted to the rear of one of the police cars  
7 nearby, and instructed to stand still. While standing handcuffed at the rear of the  
8 police car, Officer Heinkman emptied the contents of my purse onto the rear of the  
9 police car, and obtained my identification. The officer took my identification.

10          10. After obtaining my identification, I asked Officer Heinkman if he would  
11 remove my handcuffs, and he moved toward me as if he would remove the  
12 handcuffs. Before Officer Heinkman could remove my handcuffs, the other police  
13 officer (later identified as Officer Justin Voss) ordered Heinkman to keep the  
14 handcuffs on my wrists. Officer Heinkman decided to keep the handcuffs on my  
15 wrists, even though I told him that they were causing me pain.

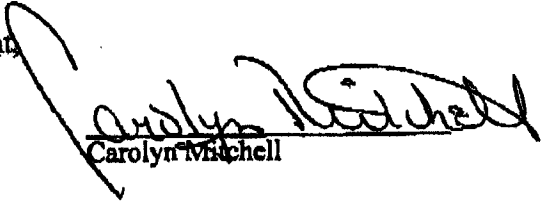
16          11. Next, the officers led me in handcuffs from the rear of the police vehicle  
17 to the extreme edge of the Sears Mall, facing Benson Boulevard, where I was  
18 displayed for approximately twenty minutes, in full view of the hundreds of vehicles  
19 passing by on Benson Boulevard. Eventually I observed a police vehicle approach,  
20 and I was instructed to move toward the car. I was asked to step forward and  
21 backward. After the police car (later identified as containing a witness to a  
22 Robbery), drove away, a police officer removed my handcuffs and stated that I was  
23 free to go.

24          12. After being released, I was never fully informed of why I had been  
25 handcuffed and detained. When I eventually returned home with my child, I turned  
26 on the 5:30 pm news on KTUU Channel 2, and I viewed myself on the television  
27

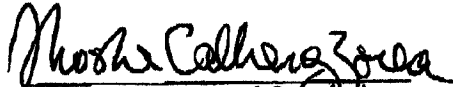
1 broadcast standing handcuffed in full view of the television cameras.

2 13. Subsequent to the May 8, 2004 incident, then-Police Commissioner  
3 Walter Monegan wrote concerning the incident that he the proper police procedure  
4 required that the officers explain their actions and apologize for handcuffing me.  
5 Commissioner Monegan at no time acknowledged that I should not have been  
6 handcuffed to begin with, only that I should have received an apology after the fact.

7  
8 FURTHER your Affiant sayeth naught.

9  
10   
Carolyn Mitchell

11  
12 SUBSCRIBED and SWORN to before me this 11 day of April, 2007.

13  
14   
15 Notary Public in and for Alaska  
My commission expires: 10/20/07

16 Moshe Calberg Zorea  
17 Notary Public for Alaska  
My Commission expires 10/20/2007

18  
19  
20  
21  
22  
23  
24  
25  
26  
27 AFFIDAVIT OF CAROLYN MITCHELL:  
28 MITCHELL V. MOA POLICE DEPARTMENT, ET AL

PAGE - 4 -